

MINUTES FOR ORDINARY MEETING OF COUNCIL

Wednesday, 17 September 2014

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 7.00pm
Closure 7.52pm



Disclaimer

The purpose of this Council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

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These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 15 October 2014.

SIGNED BY

Person presiding at meeting which minutes were confirmed

DATE

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TABLE OF CONTENTS

1.	DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS.....	1
2.	RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE.....	1
	2.1 Attendance.....	1
	2.2 Apologies.....	1
	2.3 Approved leave of absence.....	1
3.	DISCLOSURE OF INTEREST.....	1
4.	PUBLIC QUESTION TIME	2
	4.1 Response to previous public questions taken on notice	2
	4.1.1 Public Question Time – Gas Gun on Great Northern Highway, Bindoon	2
	4.1.2 Public Question Time – Targa West.....	3
	4.2 Public question time	4
	4.2.1 Public Question Time – Kylie Hughes	4
	4.2.2 Public Question Time – Anne Kell – Retaining Wall.....	6
	4.2.3 Public Question Time – Steve Vallance – Fire Mitigation.....	7
5.	PRESENTATIONS / PETITIONS / DEPUTATIONS	8
	5.1 Presentations	8
	5.2 Petitions	8
	5.3 Deputations.....	8
6.	APPLICATIONS FOR LEAVE OF ABSENCE	9
7.	CONFIRMATION OF MINUTES.....	9
	7.1 Ordinary meeting of Council – Wednesday, 20 August 2014	9
	7.2 Special meeting of Council – Wednesday, 3 September 2014	9
8.	ANNOUNCEMENT FROM THE PRESIDING MEMBER	9
9.	REPORTS.....	10
	9.1 DEVELOPMENT SERVICES.....	10
	9.1.1 Shire of Chittering Extractive Industries Local Law 2014*	10
	9.1.2 Proposed modification to existing Planning Approval – Lot 713/2929 (RN 299) Brand Highway, Muchea*.....	17
	9.1.3 Request for extension to Temporary Approval of Demountable Classrooms and Ablution Blocks - Lot 1 Santa Gertrudis Drive, Lower Chittering*	21
	9.1.4 Proposed Subdivision (WAPC 150390) – Lots 332 & 407 Teatree Road, Bindoon*	24
	9.1.5 Declared Dog Exercise Areas/Prohibited Areas*	32
	9.1.6 Appointment of Authorised Officer - Compliance Officer.....	36
	9.2 TECHNICAL SERVICES	39
	9.2.1 Asphalt for Road Construction Works*	39
	9.3 CORPORATE SERVICES.....	41
	9.3.1 Financial statements for the period ending 31 August 2014*	41
	9.3.2 Unbudgeted Expenditure - Photocopier.....	43
	9.4 CHIEF EXECUTIVE OFFICER	45

10.	REPORTS OF COMMITTEES	45
11.	MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	45
12.	QUESTIONS FROM MEMBERS WITHOUT NOTICE.....	45
13.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	45
14.	MEETING CLOSED TO THE PUBLIC	45
15.	CLOSURE.....	45

* indicates separate attachments

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7.00pm

2. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

2.1 Attendance

The following members were in attendance:

Cr Robert Hawes	President (Presiding Member)
Cr Michelle Rossouw	Deputy
Cr Alex Douglas	
Cr Don Gibson	
Cr Doreen Mackie	
Cr Sandra Clarke	

The following staff were in attendance:

Mr Gary Tuffin	Chief Executive Officer
Ms Jean Sutherland	Executive Manager Corporate Services
Mr Azhar Awang	Executive Manager Development Services
Ms Kim Perry	Executive Assistant (Minute Secretary)

There were seven members of the general public in attendance.

2.2 Apologies

Mr Jim Garrett	Executive Manager Technical Services
Mrs Karen Parker	Manager Human Resources

2.3 Approved leave of absence

Council has previously approved leave of absence for Cr Barni Norton for the Ordinary Council meeting of 17 September 2014.

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

Note: All submitted public questions have been reproduced without amendment, or correction to any typing errors.

4.1 Response to previous public questions taken on notice

4.1.1 Public Question Time – Gas Gun on Great Northern Highway, Bindoon

Rodney Leach, Bindoon asked the following questions at the Council meeting held on 20 August 2014

Question 1 ***Why was there no survey done on impact to others?***

Response 1 A noise survey was undertaken by the Shire’s Principal Environmental Health Officer and the Noise Officer from the Department of Environment Regulation (Noise Section) in June 2014. The survey indicated that noise levels were all within the requirements of the Environmental Protection (Noise) Regulations 1997. The survey was reported to Council in July 2014.

Question 2 ***Why is the effect of this on my livelihood been ignored?***

Response 2 The effect on people’s livelihood was taken into consideration in the development of the Guidelines for the Use of Gas Guns in Orchards (the Guidelines). Several key stakeholders were involved including the orchardists, community and government departments. The end result is that the demands of orchardists’ vs neighbours are always going to be at odds. A compromise was agreed to allow the use of gas guns providing the orchardist complied with a noise management plan to mitigate the effects on neighbours as far as practicable. The Blueberry Bliss Noise Management Plan (NMP) complies with the requirements of the Guidelines and therefore the Shire cannot take any further action.

Question 3 ***We submitted many complaints throughout the year and made the point perfectly clear about the impact of this practice, why has nothing been done?***

Response 3 Three reports have been presented to Council on this matter (August 2013, January 2014 and July 2014). Mr Leach has been kept informed of the reports and decisions made by Council. To say “nothing has been done” does not reflect the work done to ensure that the impact of the gas gun use complies with the Guidelines as far as reasonable and practicable.

Question 4 ***Mr Easter’s intention is to put up netting to protect his “high value fruit” which he states the “high cost” to do this means it will take some time to complete as he can’t afford it yet he can afford to build a big dam on his property. What can be done to speed up this process?***

Response 4 The owners of the orchard have indicated in the revised NMP their intention to install poles and netting within the required 3 year timeframe as required by Council’s resolution in the August 2013 report. The Blueberry Bliss owners have until August 2016 to complete the installation of the netting.

4.1.2 Public Question Time – Targa West

David Barnard, Lower Chittering asked the following questions at the Council meeting held on 20 August 2014

Question 1 *What right do competitors have to mark up the roads?*

Response 1 It's not a right, unfortunately it happens when vehicles brake or accelerate quickly which is expected with such an event. Whilst a few additional braking marks were found, our pre-event road survey indicated that there were also pre-existing black marks caused by general road users.

Question 2 *Has Council fulfilled its duty of care?*

Response 2 Yes.

Question 3 *Did LGIS report back to Council on the Managed Risk level, i.e. that risk to which MVD community would be exposed, being proposed by Targa West and the means by which this was to be provided?*

Response 3 LGIS provided assurance to Council that all appropriate measures had been taken to ensure a safe event was conducted, which was the case. The event was held without incident to competitors or spectators.

Question 4 *Does Council accept that anyone or organisation not sitting in Council must not be allowed to decide on the level or risk exposure forced upon their electorate; more particularly in the case that the LGA has approved suspension of the most important deterrent under s.60 of RTA (prosecution of reckless driver) that the Community has come to expect?*

Response 4 Yes, the decision to allow the event to proceed was made by Council, subject to various conditions.

Question 5 *Has Council discharged its duty of care and Social Responsibility towards its electorate but substituting monetary compensation by means of PLI instead of insisting on effective safety provision (barriers, etc)?*

Response 5 Refer to response 3.

Question 6 *Before executing the "Deed of indemnity" mentioned above, did the LGA perform due diligence by making certain that TARGA WEST PTY LTD, not the ultimate holding company at the time, registered with ASIC in December 2004 with 3 one dollar shares, now has sufficient funds to meet liabilities in the substitute for the \$100,000,000 PLI? – For example by written confirmation from the Company's bankers and reviewing a current Company Balance Sheet.*

Response 6 No, as the insurance company is required to cover any claim in relation to the event. Council insurers examined the \$100 million PLI policy and were satisfied it provided the appropriate cover; the Deed of Indemnity was additional to the insurance cover and confirmed their obligations.

Question 7 *In the event of TARGA WEST PTY LTD being insufficiently funded for the purpose, did the LGA perform due diligence by ascertaining that the directors have sufficient assets for the above purpose?*

Response 7 Refer to response 6 above.

Question 8 *Will Council give an undertaking that no future TW promotional marketing "Resident Surveys" will be used as a mandate for signing up a contract/memorandum/heads-of-agreement instead of adopting the Risk Management Standards specified in the COP as being the suitable determinant?*

Response 8 No, community consultation is the key to ensuring the community is kept informed. At no stage has any "Resident Surveys" been used as a mandate to enter into any agreement(s).

4.2 Public question time

4.2.1 Public Question Time – Kylie Hughes

Kylie Hughes submitted the following questions prior to the Council meeting:

Question 1 *Shire CEO please confirm and provide evidence that compliance with the Conditions 1(a) was submitted to your satisfaction and in accordance to law. Upon completion of this please confirm and provide evidence of compliance with all conditions outlined in point 2 were met to your satisfaction and in accordance to law – BEFORE APPROVAL WAS GRANTED and COMMENCEMENT OF WORK. As stated this was a stipulation for the approval being granted*

Response 1 In reference to Condition 1(a) - Applicant submit a scale survey site plan depicting proposed access, earthworks, hardstand areas, building structures, buffer areas and any development associated with the application to the satisfaction of the Chief Executive Officer. The plan received, dated 8 April 2013 was approved on 16 April 2013. As the development of the site is still in construction stage, compliance of these conditions will be inspected at the expiry of the Planning Approval (2 years from the date of Planning Approval).

Question 2 *Were the above conditions met regardless of the below amended conditions the motion for which only amends 2 points – not all of the previous points the approval WAS SUBJECT TO.*

Response 2 As the development of the site is still in construction stage, compliance of these conditions will be inspected at the expiry of the Planning Approval (2 years from the date of Planning Approval).

Question 3 *When was the above DEFERRED to? And were ALL of the conditions upon which the original decision was SUBJECT TO met? These conditions were in part in relation to concerns from residents and ratepayers from surrounding community that are adversely effected and environmental conditions.*

Response 3 The resolution of the Council on the 15 May 2013 was to **defer reconsideration of condition 2j of Planning Approval P171/12 until such time as the Applicant provides Council with a Catchment Management Plan undertaken by a qualified environmental consultant as required by Clause 6.3.3(f) of Town Planning Scheme No 6.** As a result of this decision, the applicant made an application to the State Administrative Tribunal (SAT) for a reconsideration of these conditions. The applicant submitted a Catchment Management Plan at the SAT Mediation but more information was requested. However, the applicant withdrew the application and the conditions of planning approval revert back to the original planning approval granted on 20 March 2013.

Question 4 *Is there a record of any cross reference made to the Shire's Municipal Heritage Inventory upon which this property 2929 Brand Highway is listed as well as been registered as a Heritage Place with the Heritage Council of WA BY THE SHIRE OF CHITTERING as it is a significant heritage place in our community's history ? Can due diligence be demonstrated that our heritage was considered in this case – i.e. investigation to locate and protect the 2 wells and spring that are on the property?*

Response 4 The only reference on site that is included in the Shire of Chittering Municipal Inventory of Heritage Places is "Van Ooran's House". The property is listed as Category 5 – Site as "Van Ooran's House". This category is not constrained by the Town Planning Scheme and that no specific regulations would be imposed, except in cases where the site is within the bounds of a precinct in which case the precinct category would take precedence.

The Shire recognises the value of the site and is only noted as a site of recognition or interpretation. The proposed development was not considered to have an impact on the heritage listing on the site. For any demolition work or renovation to the existing dwelling would be forwarded to the Heritage Advisory for consideration.

The only wells that are registered in the Municipal Inventory is the Old Muchea Well which is located next to the Roadhouse/IGA in Muchea. Nothing in reference to the wells or springs is listed in the Municipal Inventory.

Question 5 *There is several registered Aboriginal Heritage listed upon this property, has notification been submitted and permission and/or advice been sought from the Aboriginal Heritage Council in relation to development proposals?*

Response 5 An assessment of the Aboriginal Heritage listings was undertaken through the online tool, and was considered that the proposed development was not impacted.

Question 6 *Is there an EPA permit to clear Natural Vegetation dated prior to any land clearing commencing? Has less than the allowable 5 Ha of total clearing been observed?*

Response 6 Discussion with the DER Officer confirmed that given the area does not have native vegetation, it does not require a clearing permit. Aerial history of the site confirmed the following:

- The property was cleared of native vegetation prior to the application being lodged with the Shire. According to aerial photographs this clearing occurred prior to 1965.
- Over a 10 year period it appears none of the remaining trees have been cleared as a result of the subject development.
- The Department of Parks and Wildlife were referred the proposal and provided no objections or other comments in regard to preserving trees at the property or the requirement for the applicant to obtain a clearing permit from the Department of Environment Regulation .
- The shed, which did not result in the clearing of any trees, received formal planning approval from the Shire making it exempt from requiring a clearing permit pursuant to Regulation 5 of the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.
- Requirement of planning approval was for vegetated screening which has been planted and has led to a significant increase in the amount of trees at the property.

4.2.2 Public Question Time – Anne Kell – Retaining Wall

Anne Kell, Lower Chittering asked the following questions at the Council meeting:

Question 1 *Why was an inspection/visit from the planning surveyor done at our home without prior contact or permission? The time and date given for the visit, there was supposed to be no-one home. This is not true; there were two of us at home at 7.50am, as well as the two guard dogs on the property. There was no-one knocked at our door at that time. This incident has been reported to the Department of Local Government.*

Question 2 *Since when has a terraced garden become a retaining wall? This wall was not built to retain any soil/sand and most of the rocks were already in the soil when the pad was cut and filled. We simply added more rocks and terraces and added good soil and plants back in 2008.*

Question 3 *Why was a 4500 litre water tank claimed by the planning surveyor to require planning permission, when he told us that only tanks over 5000 litres require planning permission? It is claimed that another three we wanted to place around the block for firefighting purposes would also need planning permission.*

Question 4 *Why has all planning permission from 2008 been reversed retrospective, when Mr John Day stated in Parliament that there was to be no 'retrospective' ruling in planning decisions?*

Question 5 *Why does the fee for a planning application have to be tripled for any applications we make?*

Question 6 *Why was any action taken at all since Brendon Jeans and Azhar were well aware of our situation, and we were in the process of contacting a local Architectural Draftsperson after asking on Facebook and advised the name by Barni Norton, to submit the plans as was suggested by the aforementioned people in January 2011?*

Response The Shire President advised that the questions are taken on notice and a written response will be provided.

4.2.3 Public Question Time – Steve Vallance – Fire Mitigation

Steve Vallance, Muchea asked the following questions at the Council meeting:

Question 1 *Why do we need to contract out fire break services when according to the minutes of OCM of March 2014 the CESM's appointment has resulted in:*

Improved commitment towards mitigation including maintenance on it (sic) Strategic fire breaks, reserves and currently undergoing fuel load assessment and risk assessment on Shire reserves.

And when we have far more staff and a second grader with less roads than ever to grade?

Question 2 *What productive, useful work does the CESM do for the Shire during winter?*

Question 3 *Why was it necessary to have a special meeting to consider this tender? Why could it not have waited 'til after the SEM and be considered at this meeting?*

Response 3 The Chief Executive Officer advised that as time is running out to meet the 16 October deadline for the installation of firebreaks, there was a need to get the works underway as soon as possible.

This issue of Council's firebreaks has been raised on a number of occasions by both the public and CBFAC as an area of concern needing attention.

Question 4 *Why weren't volunteers asked about doing controlled burns as they have since the beginning of the shire's existence? They now even have a CESM to help organise it.*

Response 4 Firstly the tender document was presented to CBFAC for general feedback, which they were supportive of.

At a recent meeting with the Chittering Bushfire Services Captains they advised that currently the brigades have enough of their own private burns to undertake given limited hours available as volunteers.

Councillor Mackie advised that she attended the Captains meeting and confirmed the statement above.

Question 5 *Is it true that the tenderer recommended by the officers did not even exist as a business when being assessed?*

Response 5 Yes, there was an issue with their business registration not being completed correctly (as later advised by the tenderer), however, at the time of Council formally considering the tenders the business was registered.

Question 6 *How can a business that doesn't exist be rated highly on its: "Experience on similar work" and "Details of similar works provided by the Tenderer",*

Response 6 The Chief Executive Officer advised that the Civil Contractor had been in existence for a long time, approximately 43 years; it was the partnership that was recently formed.

Question 7 *How can a business that doesn't exist be rated so highly over:*
1 Qualifications, experience, availability and capability of personnel and equipment committed to this Contract.
2 Competence with fire mitigation activities required to deliver the required service on time?

Question 8 *How long has the business that was eventually awarded the contract actually been operating and what equipment do they currently have?*

Response 8 Cr Douglas advised that he had undertaken his own research and stated the Company has been in business for 15+ years.

The President advised the other questions are taken on notice and a formal response will be provided in writing in due course.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Presentations

Nil

5.2 Petitions

Nil

5.3 Deputations

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

6.1 COUNCIL RESOLUTION – 020914

Moved Cr Douglas / Seconded Cr Rossouw

That Councillor Gibson be granted leave of absence for the period 30 September 2014 until 31 October 2014 inclusive.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

7. CONFIRMATION OF MINUTES

7.1 Ordinary meeting of Council – Wednesday, 20 August 2014

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 030914

Moved Cr Gibson / Seconded Cr Douglas

That the minutes of the Ordinary meeting of Council held on Wednesday, 20 August 2014 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

7.2 Special meeting of Council – Wednesday, 3 September 2014

7.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 040914

Moved Cr Mackie/Seconded Cr Rossouw

That the minutes of the Special meeting of Council held on Wednesday, 3 September 2014 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Shire of Chittering Extractive Industries Local Law 2014*

Applicant	Shire of Chittering
File ref	19/04/0002
Prepared by	Azhar Awang, Executive Manager Development Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Extractive Industries Local Law 2. Schedule of Submissions

Background

The matter was previously considered by Council at its meeting held on 19 February 2014. Council at that meeting resolved as follows:

“That Council:

1. *Amends section 6.1(d) of the Extractive Industries Local Law 2014 by deleting ‘450’metres from officers residence and replacing it with ‘50m’*
2. *Subject to the amendment in recommendation 1, pursuant to section 3.13 of the Local Government Act 1995 (as amended) advertise the Shire of Chittering’s Extractive Industries Local Law 2014 in accordance with section 3.12 of the Local Government Act 1995 (as amended) give local and statewide public notice that it intends to make the Shire of Chittering’s Extractive Industries Local Law 2014 as contained in attachment 1 for a period of forty two (42) days, with the purpose and effect of this Local Law being as follows:*
Purpose: is to establish requirements and conditions which extractive industries, within the district, must comply.
Effect: is to provide for the regulation, control and management of extractive industries
3. *Upon the completion of the advertising period all submissions will be tabled at the next available Council meeting for its consideration.”*

In accordance with condition 2 of the approval the local law was advertised in a statewide notice (The West Australian) and local notice (The Advocate) which was published on Wednesday 5 March 2014 with the closing date for submissions closing on 18 April 2014.

At the close of the submission period, thirteen (13) submissions were received. A copy of the schedule of submissions is attached to this report (attachment 2).

Consultation

Letters were also sent to existing operators and relevant agencies notifying them of the proposed Local Law.

A meeting was also held between Boral/Midland Bricks and Councillors outlining Boral/Midland Brick's concern over the proposed changes to the local law.

Statutory Environment

State: *Local Government Act 1995*

Section 3.12 – Procedure for Making Local Laws

Section 3.13 – Procedures where significant change in proposal

Section 3.16 – Periodic review of Local Laws

Local: *Shire of Chittering Town Planning Scheme No 6*

5.16 BASIC RAW MATERIALS

- (a) *Extraction of essential materials for roads and construction are to be permitted in areas where they will not adversely affect living environments, the landscape quality or contribute to land degradation problems during and after operations;*
- (b) *Extraction of basic raw materials within the rural zones is to be managed in accordance with best industry practices including consideration of end use and rehabilitation at time of decommission;*
- (c) *Appropriate buffer areas are to be applied to protect both the extractive operations as well as the living or agricultural environment in nearby areas;*
- (d) *Council will not support development within those buffer areas, which may be detrimental to the efficiency of the industries. This is to protect the basic raw materials precincts from development that may compromise its operations.*

Part 6 – Special Control Areas

6.4 BASIC RAW MATERIALS

6.4.1 *Basic Raw Materials Areas are delineated on the Scheme Map.*

6.4.2 Purpose

To secure known basic raw materials resources, and protect future resources.

6.4.3 Planning Requirements

Planning Approval is required to extend a dwelling or other building within the Buffer Area.

No new dwellings shall be approved within this buffer area.

6.4.4 Relevant Considerations

Whether development in the buffer area will affect future Extractive Industry operations.

6.4.5 Referral of Applications for Rezoning or Planning Approval

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

Policy Implications

Local: *Local Planning Policy No 10 – Basic Raw Materials and Extractive Industries*

State: *State Planning Policy 2.4 – Basic Raw Materials*

Financial Implications

There will be advertising costs associated with the adoption of the local law.

Strategic Implications

The Local Planning Strategy Map shows area of “Special Control Area – Basic Raw Materials” which is to secure known basic raw materials resources and protect future resources.

In the Lower Chittering area, the “Special Control Area – Basic Raw Materials” abuts Rural Residential development and future extraction within close proximity to the buffer area may have an adverse impact to surrounding residential development.

Site Inspection

Site inspection undertaken: Annual compliance inspection of existing sites.

Triple Bottom Line Assessment

Economic implications

There will be economic implications to the operators in maintaining the proposed setback (50m) from the property boundary as this has the potential to sterilise resources.

Social implications

There may be social implications associated with the proposal due to noise and dust issues if the appropriate buffer is not provided and not conforming to the approved management plan.

Environmental implications

There may be environmental implications associated with this proposal due to unnecessary clearing and operational management matters due to noise and dust.

Comment

The main issues that were raised during the second round advertising submission period were:

- The 50m setback from the boundary where it was recommended to have this reduced to 20m consistent with the existing local law requirement.
- The 500m of any adjoining residence. Concerns expressed in the submissions, was that the buffer requirements will sterilise valuable resources.
- The need to have a certain degree of flexibility in the local law to give Council discretion in its decision making.

There are three (3) aspects of the Basic Raw Materials that provide some level of control to protect adjoining residences from nuisances associated with extractive industry and to protect and secure known basic raw materials and future resources. These are:

1. Special Control Areas – Basic Raw Materials;
2. Setbacks from properties; and
3. Setback from adjoining residences.

Special Control Areas

The first aspect is the Special Control Area – Basic Raw Materials which is delineated in the *Shire of Chittering Town Planning Scheme No 6*. The purpose of the Special Control Area is to secure known basic raw materials resources and to protect future resources. It also makes reference in the Town Planning Scheme as to what the planning requirements are when dealing with development applications within the Special Control Area such as not permitting any new dwellings within the buffer area and the effect of future development within the buffer area.

The Special Control Area provides the buffer to ensure that no new dwellings are permitted within the buffer area and ensure that the materials extracted are no closer than the required distance from the edge of the buffer so as to ensure that the activities associated with Extractive Industries can be easily managed within the Special Control Buffer. From the discussion at the Council briefing with Boral/Midland Bricks, it was stated that the basic raw materials identified within the Special Control Area are located at a distance that the minimum 500m buffer from the Rural Residential land can be met. What this means is that the extraction of the basic raw materials should not come any closer than 500m from the edge of the Special Control Areas; particularly those properties that abut Rural Residential Zoned land and other forms of rural living.

Setback from properties

Clause 6.1 of the Local Law makes provision to the limits on excavation near boundary and reads as follows:

6.1 Limits on excavation near boundary

Subject to any licence conditions imposed by the local government, a person must not excavate within;

- (a) 50 metres of the boundary of any land on which the excavation site is located;*
- (b) 20 metres of any land affected by a registered grant of easements;*
- (c) 40 metres of any watercourse and /or wetland;*
- (d) 50 metres of any thoroughfares; or*
- (e) 500 metres of any adjoining residences unless approved by Council in writing in accordance with the Department of Environment and Conservation Guidelines, March 2011 – “A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites and remediation and other activities.”*

This provision is to ensure that the required setbacks are met so as to protect adjoining amenity and to manage the nuisances generated from extractive industry (noise, dust) so as not to adversely impact on the adjoining properties.

The concerns expressed by a number of the submissions is to reduce the 50 metres setback down to 20 metres as per the original provision in the local law as it was considered that this would sterilise a significant amount of the resources within the property. The 20 metres setback was found to be inadequate due to ongoing issue with dust encroaching adjoining properties.

It is acknowledged that this may have some implication in the Special Control Areas where the purpose is to protect and secure known basic raw materials. On this basis it is recommended that a clause be added in reference to the Special Control Area – Basic Raw Materials to allow Council the discretion for a reduced setback with the consent of the adjoining land owners.

Setback from adjoining residences

In Clause 6.1(e), a person must not excavate within 500 metres of any adjoining residences unless approved by Council in writing. Submissions received on this matter raised concern on the impact this provision will have on the ability for the operators to extract the resources and that this provision will sterilise a significant amount of materials due the inability to extract within 500 metres of adjoining residences. It should be noted that this clause also provides the applicant the ability to seek a variation to the requirement of the 500 metres from any adjoining residences by addressing the requirements as outlined in the Department of Environment and Conservation Guidelines, March 2011 – *A guideline for managing the impacts of dust and associated contaminant from land development sites, contaminated sites remediation and other activities.*

The requirement of this clause is to ensure that the surrounding amenities are protected and that the appropriate buffer and setbacks are applied.

Based on the submissions received it is recommended that Council approve the Extractive Industries Local Law 2014 subject to the following amendments outlined in the officers recommendation.

9.1.1 OFFICER RECOMMENDATION

That Council in regards to the Extractive Industries Local Law 2014:

1. Amend clause 1.4 – definition for *“carry on an extractive industry”* to delete the words *“similar materials”* and replace with the words *“basic raw materials”*.
2. Amend clause 1.5(a) (ii) to provide clarity by inserting the words *“unless that excavation is conducted under a valid, ongoing licence issued under the local law repealed by clause 1.6 of this local law;”* at the end of this clause after the words *“this local law”*.
3. Amend clause 3.2(1) (a) by deleting the words *“the route”* and inserting the words *“that if the proposed routes are not suitable for the proposed haulage, the local government may determine alternative routes”* in front of the words *“to be taken...”*
4. Amend clause 5.2(1) by moving the wording at the end of clause 5.2(1)(b) *“then, subject to the local government giving the licensee 14 days’ notice of its intention to do so –”* as a new paragraph so as to give full effect of the subsequent actions to clause 5.2(1)(a) and (b).
5. Amend 6.1(a) by inserting the words *“including earth bund and haul road, unless the site is located within the Special Control Area – Basic Raw Materials as depicted in the Shire of Chittering Town Planning Scheme No 6 Map, where a lesser distance may be allowed with written consent from adjoining landowners”* after the word *“located”*.
6. Amend 6.2 (a) by inserting *“...Regulation/Department of Parks and Wildlife”* and delete *“and Conservation”*.
7. Amend 6.4(b) by deleting *“not more than 200 metres apart;”*.
8. Amend 6.4(b) by deleting *“1.8 metres”* and replace with *“1 metre”*.
9. Amend the formatting as suggested by the Department of Local Government and Communities as shown in the track changes of the attachments.
10. Adopts the Shire of Chittering Extractive Industries Local Law 2014 incorporating the changes as recommended above.
11. Publish the Shire of Chittering Extractive Industries Local Law 2014 in the Government Gazette.
12. Authorise the Shire President and the Chief Executive Officer to sign and affix the Common Seal to the Shire of Chittering Industries Local Law 2014.

13. Pursuant to section 3.12 of the Local Government Act 1995, Council give statewide public notice of the Shire of Chittering Extractive Industries Local Law 2014:
- Stating the title of the local law;
 - Summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - Advising that copies of the local law may be inspected or obtained from the Local Governments' office.

AMENDMENT

Moved Cr Rossouw / Seconded Cr Mackie

That condition 5 be amended to read as follows:

Amend 6.1(a) by inserting the words *"including haul road, unless the site is located within the Special Control Area – Basic Raw Materials as depicted in the Shire of Chittering Town Planning Scheme No 6 Map, where a lesser distance may be allowed with written consent from adjoining landowners"* after the word *"located"*.

**THE AMENDMENT WAS PUT AND DECLARED LOST 3/4
WITH THE CASTING VOTE OF THE SHIRE PRESIDENT**

AMENDMENT

Moved Cr Rossouw / Seconded Cr Mackie

Amend 6.1(e) by including the wording **"and adjoining neighbours..."**

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION**

9.1.1 COUNCIL RESOLUTION - 050914

Moved Cr Gibson / Seconded Cr Douglas

That Council in regards to the Extractive Industries Local Law 2014:

- Amend clause 1.4 – definition for "carry on an extractive industry" to delete the words "similar materials" and replace with the words "basic raw materials".
- Amend clause 1.5(a) (ii) to provide clarity by inserting the words "unless that excavation is conducted under a valid, ongoing licence issued under the local law repealed by clause 1.6 of this local law;" at the end of this clause after the words "this local law".
- Amend clause 3.2(1) (a) by deleting the words "the route" and inserting the words "that if the proposed routes are not suitable for the proposed haulage, the local government may determine alternative routes" in front of the words "to be taken..."
- Amend clause 5.2(1) by moving the wording at the end of clause 5.2(1)(b) "then, subject to the local government giving the licensee 14 days' notice of its intention to do so –" as a new paragraph so as to give full effect of the subsequent actions to clause 5.2(1)(a) and (b).
- Amend 6.1(a) by inserting the words *"including earth bund and haul road, unless the site is located within the Special Control Area – Basic Raw Materials as depicted in the Shire of Chittering Town Planning Scheme No 6 Map, where a lesser distance may be allowed with written consent from adjoining landowners"* after the word *"located"*.

6. Amend 6.2 (a) by inserting “...*Regulation/Department of Parks and Wildlife*” and delete “*and Conservation*”.
7. Amend 6.4(b) by deleting “not more than 200 metres apart;”.
8. Amend 6.4(b) by deleting “1.8 metres” and replace with “1 metre”.
9. Amend the formatting as suggested by the Department of Local Government and Communities as shown in the track changes of the attachments.
10. Adopts the Shire of Chittering Extractive Industries Local Law 2014 incorporating the changes as recommended above.
11. Publish the Shire of Chittering Extractive Industries Local Law 2014 in the Government Gazette.
12. Authorise the Shire President and the Chief Executive Officer to sign and affix the Common Seal to the Shire of Chittering Industries Local Law 2014.
13. Pursuant to section 3.12 of the Local Government Act 1995, Council give statewide public notice of the Shire of Chittering Extractive Industries Local Law 2014:
 - a. Stating the title of the local law;
 - b. Summarising the purpose and effect of the local law (specifying the day on which it comes into operation); andAdvising that copies of the local law may be inspected or obtained from the Local Governments’ office.
14. Amend 6.1(e) by including the wording “and adjoining neighbours”.

**THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY VOTE**

9.1.2 Proposed modification to existing Planning Approval – Lot 713/2929 (RN 299) Brand Highway, Muchea*

Applicant	Whitestone Quarries Pty Ltd
File ref	A5006; P171/12
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Council Minutes 20 March 2013 OCM 2. Amendment application

Background

Council's consideration is requested for a proposed modification to a condition of the Planning Approval at Lot 713/2929 (RN 299) Brand Highway, Muchea.

Council at its 20 March 2013 Ordinary Council Meeting (OCM) resolved to grant Planning Approval subject to conditions for a Rural Industry and Transport Depot at 299 Brand Highway, Muchea (attachment 1). The Applicant is requesting to modify Condition 2e of the Planning Approval:

"2e. No access from Chittering Street and Energy Place."

Following the Planning Approval granted by Council, the Applicant has been in ongoing discussions with Main Roads WA (MRWA) to obtain approval for access to Brand Highway. MRWA have indicated they would not support the upgrade of the existing access direct from the property to Brand Highway. The modification request is based on advice from MRWA and the Shire that the use of Energy Place may be acceptable subject to upgrade and design and Council's approval. For the Applicant to comply with the Planning Approval granted, a modification to Condition 2e to allow access from Energy Place has been requested.

Consultation

Main Roads WA has been consulted seeking their comments on the proposed modification for access to the site. MRWA provided the Shire with a copy of the letter sent to the landowner outlining their support for the revised Traffic Impact Statement for the access of Energy Place, and their requirements to obtain approval.

The Shire's Executive Manager Technical Services has supported the proposed design of access onto Energy Place, and has advised the requirement of Energy Place to be constructed in accordance with the Shire's *Subdivisional Development Guidelines 2012* (as amended).

Statutory Environment

State: *Planning and Development Act 2005*

Local: *Shire of Chittering Town Planning Scheme No 6*

The subject property is zoned 'Agricultural Resource'. The objectives of this zone are:

- (a) *To preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;*
- (b) *To protect the landform and landscape values of the district against despoliation and land degradation;*
- (c) *To encourage intensive agriculture and associated tourist facilities, where appropriate;*

- (d) *To allow for the extraction of basic raw materials where it is environmentally and socially acceptable.*

The subject property is located within the 'Water Prone Area – Ellen Brook Palusplain' Special Control Area outlined in Clause 6.3 of the Scheme.

6.3 WATER PRONE AREA – ELLEN BROOK PALUSPLAIN

6.3.1 *Land subject to Inundation or flooding are delineated on the Scheme Map. Planning Approval is required for any development within the Special Control Area.*

6.1.1 Purpose

- (a) *To manage development in areas where there is high risk of inundation so as to protect people and property from undue damage and where there is a potential risk to human health.*
- (b) *To preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems.*
- (c) *To ensure that wetland environmental values and ecological integrity are preserved and mentioned.*

6.3.3 Planning Requirements

The Local Government will impose conditions on any Planning Approval relating to-

- (a) *the construction and occupation of any dwelling or outbuilding;*
- (b) *the type of effluent disposal system used in this area shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council and the Health Department and shall be located in a position determined by Council.;*
- (c) *minimum floor levels for any building above the highest known water levels;*
- (d) *any land use that may contribute to the degradation of the surface or sub-surface water quality.*
- (e) *no development other than for conservation purposes will be permitted within 30 metres of any natural water body;*
- (f) *amming, draining or other developments which may alter the natural flow of surface water will not be permitted unless such works are part of an approved Catchment Management Plan.*

6.3.4 Relevant Considerations

In considering applications for Planning Approval, the Local Government shall have regard to-

- (a) *the likely impact on the health and welfare of future occupants;*
- (b) *the proposed activities for the land and their potential increase in the risk of causing an increase in nutrients entering the water regimes;*
- (c) *any provision or recommendation from any Catchment Management Plan.*
- (d) *the likely impact on any wetland;*
- (e) *buffer distances from any wetland.*

6.3.5 Referral of Applications for Planning Approval

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

Local: *Shire of Chittering Subdivisional development Guidelines 2012 (as amended)*

The design and construction of Energy Place for the proposed use shall be in accordance with the Shire's Specifications dealt with by the Shire's Technical Services department.

Policy Implications

Nil

Financial Implications

It is considered the proposal will have minor financial implications on Council due to ongoing road maintenance. The Applicant would bear all associated costs with the upgrade and use of Energy Place.

Strategic Implications

Local: *Shire of Chittering Local Planning Strategy 2001-2015*

Lot 2929 Brand Highway is located within the 'Ellen Brook Palusplain', which is further identified and addressed in the Strategy:

6.4.2 Aims

- *To protect and enhance the rivers, lesser flow lines and wetlands as a measure to arrest land degradation and improve water quality with appropriate buffer widths determined using biophysical criteria;*
- *To include the recommendation of the Ellen Brook Integrated Catchment Plan as to land uses and nutrient control by encouraging improved land management practices;*
- *To prohibit any non-agricultural development which may contribute to pollution of the surface water or sub-surface water regimes;*
- *To apply the recommendations for the Ellen Brook Catchment Management Plan to achieve the objectives and liaise with relevant agencies for any applications for development or change of land use.*

It is considered the broad issues outlined in Section 7.0 of the Strategy are relevant to the proposal.

Due to the subject property being zoned 'Agricultural Resource'; Section 8.8 of the Strategy outlines the aims of the zone and applies to this application.

Section 10.0 of the Strategy makes reference to the 'Special Control Areas' identified on the Scheme Maps, with the subject property being situated within the 'Water Prone Area – Ellen Brook Palusplain Special Control Area'.

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

There are no known economic implications associated with the proposed modifications to the Planning Approval. The Applicant will be responsible for the costs associated with the required upgrade of Energy Place.

Social implications

There are no known social implications associated with the proposed modifications to the Planning Approval.

Environmental implications

There are no known environmental implications associated with the proposed modifications to the Planning Approval.

Comment

The proposed modification to the condition of the Planning Approval to allow access from Energy Place will still require the Applicant to obtain approval from MRWA for the upgrade and use of the intersection of Energy Place with Brand Highway (Condition 2c). The existing Planning Approval requires the internal access road to be bitumen sealed and for traffic to be consistent with the Traffic Impact Statement (TIS) dated 2013. As the access arrangements have changed, a revised TIS was required and so it is considered appropriate to also modify Condition 2d of the Planning Approval to state the revised date.

The proposed modification is considered to provide a good outcome as it will result in the improvement of Energy Place, result in the associated traffic movements of the site at a greater distance from Muchea Town-site residences and be consistent with the position of MRWA to utilise existing access options. Furthermore it is considered that Council's reconsideration of the decision is justified due to the advice received from MRWA.

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 060914

Moved Cr Gibson / Seconded Cr Douglas

That Council:

- 1. Support the modification to Condition 2e of Planning Approval P171/12 to read as follows:
"2e. Access shall be from Energy Place. Energy Place shall be constructed in accordance with the approved design drawings and the Shire of Chittering Subdivisional Development Guidelines 2012 (as amended) to the satisfaction of the Chief Executive Officer."**
- 2. Support the modification to Condition 2d of Planning Approval P171/12 to revise the date of the Traffic Management Impact Statement to 21 July 2014.**
- 3. Delegate authority to the Chief Executive Officer to grant Planning Approval P171/12 with the modification set out in 1 and 2 above.**
- 4. Notify the Applicant that the modification of Condition 2e does not alter the timeframe of compliance of conditions of Planning Approval P171/12.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

**9.1.3 Request for extension to Temporary Approval of Demountable Classrooms and Ablution Blocks
- Lot 1 Santa Gertrudis Drive, Lower Chittering***

Applicant	Immaculate Heart College Ltd
File ref	A11199; P226/11
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Aerial Photo 2. Site Plan 3. Applicant's cover letter with timeline of events 4. 16 April 2014 OCM Minutes

Background

Council's consideration is requested to extend the approval for the temporary demountable classrooms and ablution blocks at Lot 1 Santa Gertrudis Drive, Lower Chittering.

Excerpt from Attachment 4 as background:

As per the cover letter (Attachment 3), the Applicant is requesting an extension to the approval period for the demountable buildings which was granted at the 19 October 2011 Ordinary Council Meeting. In 2011 the Applicant was seeking the approval of the temporary structures to provide the school service whilst construction of the permanent primary school development was undertaken. At this time it was proposed to be completed by 2014. The temporary approval granted was until 31 December 2014 by which time the temporary school use was to cease and the demountable buildings removed.

The proposed extension for the demountable school development has been recently considered by Council at its 16 April 2014 Ordinary Council meeting, whereby Council resolved not to support the extension for the reasons set out in Attachment 4. Following Council's decision the Applicant and Shire officers had further discussions on what was required to be undertaken to satisfy Council's concerns and receive support for the development of the site.

In August 2014 the Applicant provided the Shire with details of approved funding and a revised cost breakdown of the school development approved by the Department of Education, which assists in providing certainty that the permanent school development is viable. In addition to this the Applicant also engaged engineering consultants to prepare a suitable design for ingress/egress to the site acceptable to the Shire.

The Applicant's cover letter explains the difficulties in establishing the permanent school development and progress made over the past two years and is seeking an extension of the temporary school buildings for a further three years.

Consultation

Chief Executive Officer
Executive Manager Technical Services
Department of Education

Statutory Environment

State: *Planning and Development Act 2005*

Local: *Shire of Chittering Town Planning Scheme No 6*

The property is zoned for **Public Purpose** on the Scheme map, denoted for 'School and Place of Assembly'.

Policy Implications

Shire of Chittering Local Planning Policy No 13 – Car Parking Requirements

This Policy sets out the standard and number of car parking bays required for various developments.

Financial Implications

Nil

Strategic Implications

Shire of Chittering Local Planning Strategy 2001-2015

8.4 MARYVILLE – LOWER CHITTERING

8.4.1 Location

Maryville is the centre of the rural living areas in the southern part of the Shire being strategically located on the junction of local distributor roads (Muchea East Road, Chittering Road). In the future there is to be a main collector road connecting Maryville to the northern rural residential areas along Maddern Road.

8.4.2 Aims

- *To establish a minor centre for recreation, community and retail purposes at Maryville;*
- *To permit a range of rural residential lot sizes where scheme water is provided;*
- *To promote the use of appropriate suitable and capable land for small rural holdings and agro-tourism.*

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

It is considered the proposal would provide residents with the opportunity to access an education service and would likely attract young families to reside in the area.

Social implications

Should Council not support the extension of the temporary demountable school project the school's capacity will decrease to the two permanent classrooms and assembly hall. The impacts of this will include the forcing of student numbers to drop due to physical capacity of the buildings.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Comment

As mentioned in the 16 April 2014 Ordinary Council meeting minutes, the development of the school from 2011 has altered over time. To capture the overall school development of the site it is considered appropriate to grant a fresh Planning Approval to better reflect the existing development of the site and simplify the approval for the site. The Officer's Recommendation treats the school development as a fresh Planning Approval incorporating the existing demountable school so as to not create separate approvals running concurrently and also to ensure that progress is undertaken.

The Officer's Recommendation requires progress to be made on the Stage 1 development and other associated site requirements such as parking and landscaping over the two (2) year extension period in stages. It is considered that a maximum two year period is sufficient for the Applicant to complete the necessary works and demonstrate to Council their ability to progress the development. The Conditions of the Planning Approval in the Officer's Recommendation are generally consistent with previous approvals taking into account the comments above.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 070914

Moved Cr Gibson / Seconded Cr Mackie

That Council:

1. Grant a new Planning Approval for the School Development covering the entire site of Lot 1 Santa Gertrudis Drive, Lower Chittering subject to the following:
 - a. Existing and future development shall be in accordance with the site plan dated November 2013 (attachment 2).
 - b. The temporary demountable school development, as marked on the site plan, shall be approved for a period of 12 months, which may be extended for an additional 12 months with prior written approval from the Chief Executive Officer, to a total of two (2) years only after which the temporary school structures must be removed from site, subject to the following being undertaken:
 - i. Building permit application for Stage 1 development being approved by Council within 6 months of the Planning Approval; and
 - ii. Construction of Stage 1 development being substantially commenced within 12 months of the Planning Approval; and
 - iii. Construction of Stage 1 being completed and Certificate of Design Compliance being issued within 2 years of the Planning Approval; and
 - iv. Construction, seal and landscaping of access and parking areas being completed within 2 years of the Planning Approval to the satisfaction of the Chief Executive Officer.
 - c. Ingress and egress of the site shall be in accordance with approved design and engineering drawings to the satisfaction of the Chief Executive Officer.
 - d. All roofing shall be of a non-reflective nature.
 - e. All stormwater from roof catchment shall be connected to adequate rainwater tank storage onsite.
 - f. Internal roads and parking areas shall be designed to accommodate bus movements.
 - g. Car parking shall be provided in accordance with the Shire's Local Planning Policy No 13 Car Parking Requirements.
2. Failure to comply with Condition 1b will result in further extensions not being supported.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.1.4 Proposed Subdivision (WAPC 150390) – Lots 332 & 407 Teatree Road, Bindoon*

Applicant	Melvista Park Pty Ltd
File ref	18/03/100; WAPC 150390
Prepared by	Mark Johnston, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Proposed Subdivision 3. Lots 621 and 332 Teatree Road Development Plan 4. Zoning Map

Background

Council's consideration is requested for the proposed subdivision of Lots 332 and 407 Teatree Road, Bindoon referred to the Shire by the Western Australian Planning Commission (WAPC).

There is currently a Development Plan approved over the existing lots. The Development Plan was originally approved over Lots 621 and 332 Teatree Road, Bindoon. Lot 662 was then subdivided into ten super-lots in accordance with the Development Plan. The subject subdivision proposal is not in accordance with the Development Plan. No application has been lodged with the Shire to modify the Development Plan in accordance with the proposed Subdivision.

The Department of Planning has advised the Shire that they do not think it is necessary for the Development Plan to be modified accordingly given the subject properties are predominantly cleared, posing little bushfire hazard.

There is a considerable history of events in regard to the subdivision proposals at the properties. The history of the Development Plan is as follows:

1. A subdivision application was lodged in December 2008 proposing 100 lots over the properties the subject of the Development Plans. The proposed lots were either 5,000m² or 1 hectare in area.
2. The subdivision proposal was inconsistent with the Development Plan and 'Rural Residential' zone which allows lots of minimum 1 hectare area. Therefore, Council resolved to advise the WAPC that it was not in support of the proposed subdivision.
3. The WAPC deferred the subdivision application to allow the Applicant to request the initiation of a Scheme Amendment to insert a 'Residential R2' zone into the *Town Planning Scheme No 6* which allows a minimum lot size of 5,000m². In conjunction with this Scheme Amendment the Applicant proposed the rezoning of the properties the subject of the Development Plan to the Residential R2 zone.
4. Council supported the Scheme Amendment subject to only the areas cleared of natural remnant vegetation, as outlined by the Development Plan, being rezoned.
5. The Minister for Planning resolved to grant final approval for the Scheme Amendment with all the properties being rezoned except for four of the properties that are completely covered in remnant vegetation (refer to attachment 3). Lots 332 and 407 Teatree Road, Bindoon, were rezoned to Residential R2.
6. Once the properties were rezoned the Applicant lodged a revised proposal for the above subdivision application to the WAPC proposing 123 lots both 5,000m² and 1 hectare in area. The WAPC granted formal approval for the revised proposal subject to conditions during March 2010.
7. The conditions of subdivision approval were never cleared therefore the proposed lots were never created. The subdivision approval lapsed on the 25 May 2014.

The subject subdivision application presented to Council for comment proposes the subdivision of only two of the properties which were approved for subdivision above. The proposal is consistent with the previous approval over the two properties in regard to lot layout; except for the proposed Lot 11 which was previously approved as three lots which included land from the adjoining property. The application proposes to create the following lots:

- Nine (9) 5,000m² lots;
- One (1) 5,552m² battleaxe lot; and
- One (1) 10,000m² (1 hectare) lot.

No roads are proposed through the subdivision. All lots except for the 1 hectare lot have road frontage. One lot is proposed with a battleaxe access to achieve road frontage. There is a Strategic Firebreak along the Eastern Boundary of the Development. A draft Fire Management Plan was lodged in accordance with one of the conditions as per the previous subdivision approval.

The proposed lots are completely cleared except for Lot 11 which contains a small portion of vegetation to the North. The land slopes gradually down from North to South which becomes less steep as you move down the slope.

Consultation

No public consultation was undertaken as this occurred through the adoption of the Development Plan and Scheme Amendment. The proposal was referred to the Shire's Community Emergency Services Manager (CESM) and Executive Manager Technical Services (EMTS) for comment.

The Shire's CESM advised that the proposed battleaxe Lot 5 is undesirable as it only provides a single access and egress point in the case of emergency. It also sets a bad precedent for the development of other battleaxe lots in the area.

The Shire's EMTS advised that no special conditions are required for the subdivision, such as road widening or upgrading. Therefore, the standard conditions in regard to draining and filling the land and the provision of crossovers have been applied.

Statutory Environment

State: *Planning and Development Act 2005*
Transfer of Land Act 1983

Local: *Shire of Chittering Town Planning Scheme No 6*

The subject properties are zoned 'Residential R2'. The proposal is considered to be consistent with the objectives of the zone which are as follows:

- *To designate areas for low density residential development in a rural setting, in which natural environmental values are conserved as far as possible.*
- *To meet the demand for lifestyle lots with a minimum Lot size of 5,000m².*
- *To ensure development is sited and designated to achieve an integrated and harmonious character within each estate.*

Shire of Chittering Delegated Authority Register

Pursuant to Section DA47 of the Shire of Chittering Delegated Authority Register there is no delegated authority for determining subdivision applications which propose more than five (5) Lots.

Policy Implications

Local Planning Policy No 1 – Bindoon Townsite

The properties do fall within the study area of Council's *Local Planning Policy No 1 – Bindoon Townsite*. The Policy outlines the subject properties as falling within Development Precinct E. The major objective for the precinct is to limit subdivision to lots with a minimum area of 3 hectares. This is no longer applicable given the properties have been rezoned 'Residential R2' which permits a minimum lots size of 5,000m² when connected to reticulated water.

Another key objective of the Policy is the requirement for a local structure plans to be implemented as a precursor to subdivision. A structure plan provides the community and future land owners of the proposed properties certainty of any development and or change in land use.

Local Planning Policy No 21 – Fire Management Plans

There is currently a Strategic Firebreak through easements along the Eastern boundary of the subject properties in accordance with Council's *Local Planning Policy No 21 – Fire Management Plans*. It is recommended this Strategic Firebreak is retained through easements on the proposed lots.

In addition, a draft Fire Management Plan (FMP) was lodged in 2010 in accordance with a condition of subdivision approval for the 123 lots over the properties the subject of the Development Plan. The FMP was lodged as a draft and never formally adopted. The Shire's CESM advised that the FMP is also quite outdated and not as comprehensive as some of the more recent FMP's formally adopted. Therefore, it is recommended that a condition of subdivision approval requires a FMP to be prepared. Through the clearance of this condition the draft FMP can be updated and formally adopted.

Furthermore, it is recommended that the Applicant be required to install rural numbers at all properties created for the purpose of easily locating properties for emergency services.

Local Planning Policy No 32 – Development Plans

The following of *Local Planning Policy No 32 – Development Plans* outlines Council's position on the requirement for a Development Plan.

5.1 Requirement for a Development Plan

A Development Plan is to be prepared and submitted to Council for approval:

- a) *Prior to rezoning of any Agricultural Resource land to Rural Retreat, Small Rural Holdings, Rural Residential, Townsite or Industry;*
- b) *Prior to subdivision of any land zoned, Rural Retreat, Small Rural Holdings or Rural Residential;*
- c) *Prior to subdivision into 10 or more lots of any land zoned Agricultural Resource, Townsite or Industry; and*
- d) *Otherwise as specified by the Council.*

A Development Plan has been adopted over the properties as outlined in the background section of this report. However, the proposed subdivision is no longer in accordance with the Development Plan.

In addition, the Policy outlines Council's position of not supporting battleaxe lots.

Shire of Chittering Register of Policies – 9.2 Battleaxe Access

Council's *Battleaxe Access* Policy outlines that the Shire of Chittering is not in favour of battleaxe access in any subdivision. Where a battleaxe is required it shall be a maximum length of 10m and minimum width of 10m. The proposed battleaxe lot 5 does not comply with these requirements.

Financial Implications

Nil

Strategic Implications

Shire of Chittering Local Planning Strategy 2001-2015

The subject properties are identified by the *Local Planning Strategy Map* as falling within a 'Townsite Consolidation Area'.

The following of the Strategy is applicable to the consolidation area:

8.1 BINDOON TOWNSITE

8.1.1 Townsite Area Definition

The townsite extension area is confined by Teetree Road to the South, Perth-Darwin highway to the West, Crest Hill Road to the North and the hill range to the East of the existing Townsite.

8.1.2 Aims

- *To retain the rural character of the settlement and its precincts;*
- *To confine standard residential, commercial, educational and associated community uses to the immediate Bindoon town centre along Great Northern Highway;*
- *To facilitate rural residential and mixed tourist and recreation uses East of the Bindoon town centre;*
- *To maintain adequate setbacks from the Perth-Darwin Highway Route;*
- *To preserve and Enhance the natural features of the bushland backdrop to the town centre and the foreshore of Lake Needoonga;*
- *To protect the water catchment of the town water supply; and*
- *To facilitate a variety of tourist, rural residential and recreational uses to the West of the town, abutting the Perth-Darwin Highway alignment.*
-

The proposal is considered to be consistent with the Aims of the Strategy.

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

The creation of additional lots is considered to provide economic benefits to the Shire through increasing the rate base and threshold population for local business/employment.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

The existing lots proposed for subdivision are predominantly cleared of any remnant vegetation. Therefore, the proposal poses little environmental impact.

There is a small portion of remnant natural vegetation to the North of Lot 407 Teetree Road, which will be fully contained within the proposed Lot 11. This vegetation has been identified as a 'Vegetation Protection Area' through the adoption of the Development Plan. It is considered the provisions of the Development

Plan adequately protect the vegetation. However, should the Development Plan not apply to the proposed lots conditions need to be in place to protect this vegetation.

Comment

Property Access

The subdivision application proposes Lot 11 which does not have access to a legal constructed road. Therefore, it is recommended that Lot 11 be amalgamated with Lot 10 until such time as a road can be constructed to provide Lot 11 legal road frontage in accordance with the subject Development Plan.

In addition, Lot 5 is proposed as a battleaxe lot. This produces a single point of access and egress which is undesirable in the case of an emergency. As outlined in the Policy implications above, Council has a strong stance in not supporting battleaxe access. Therefore, it is recommended that the subdivision application be revised to remove access to any property through a battleaxe.

Development Plan

As outlined in the Background section of this report, an Outline Development Plan has been adopted over the properties as a form of local structure plan. However, the Development Plan outlines 1 hectare lots which are not consistent with the proposal. Therefore the Development Plan and its provisions would not be applicable to any of the proposed lots once created. It is recommended that the Development Plan be modified in accordance with the subdivision proposal so that it applies to the proposed properties.

Through the adoption of the Development Plan the provisions of Council's *Town Planning Scheme No 6* and local planning framework are identified that apply to the use and management of the land that are not normally anticipated by prospective buyers.

Such provisions include the permissibility of stocking the land requirements for effluent disposal systems, landowner responsibility, fire control and vegetation protection (attachment 2). Such provisions can be outlined through notifications, covenants and other memorials on the Certificates of Title of the proposed properties. However, this is considered excessive and not necessary when the Development Plan can simply be modified to reflect the proposed subdivision making it applicable.

There are examples of other 'Townsite' and 'Residential R2' subdivisions which required the prior adoption of an applicable Outline Development Plan. One in close proximity to the subject properties is Lot 7 Gray Road, Bindoon where a subdivision application proposed 23 'Residential R2' lots in conjunction with 'Rural Residential' lots. The majority of the Residential R2 lots are cleared of natural remnant vegetation similar to Lots 332 and 407 Teatree Road, Bindoon. The Applicants were required to modify the Development Plan approved over the property prior to the subdivision being approved.

Another example is the Woodlands Estate (originally Lot 1924 Payne Street, Muchea) where an Outlined Development Plan, although not a statutory requirement, was required to be adopted to inform prospective buyers of special provisions relating to the properties. Furthermore, a subdivision application at Lot 9500 Endeavour Drive, Bindoon (which falls under the same Development Plan as the subject properties) has been deferred in order for the Development Plan to be modified in accordance with the subdivision proposal. Therefore, it is extremely inconsistent and undermines due process to require the modification of the Development Plan for one subdivision application within the Estate and not for another.

Conclusion

The proposal is consistent with the objectives of the zone and *Local Planning Strategy*. Through minor layout modifications, as outlined above, and the Development Plan being modified to be consistent with the proposal, the development is a positive step towards the consolidation of the Bindoon Townsite area in increasing the threshold population.

Therefore, it is recommended Council supports the subdivision application in accordance with the Officer Recommendation below.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 080914

Moved Cr Gibson / Seconded Cr Douglas

That Council advise the Western Australian Planning Commission of its support for the proposed subdivision (WAPC 150390) of Lots 332 and 407 Teatree Road, Bindoon subject to the following conditions:

- 1. The subdivision proposal is revised as follows:
 - a. The removal of any access through a battleaxe; and**
 - b. Lot 11 being amalgamated with Lot 10 until such time as road frontage can be provided in accordance with the relevant Development Plan.****
- 2. Prior to the subdivision being approved the Development Plan the properties are subject to is modified in accordance with the proposed subdivision, including any revision as a result of condition 1 above;**
- 3. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia;**
- 4. The landowner/applicant shall provide a written undertaking to the satisfaction of the Western Australian Planning Commission to advise prospective purchasers of the provisions of the Local Government's Local Planning Scheme that relate to the use and management of the land.**
- 5. Engineering drawings and specifications are to be submitted, approved by the Shire's Technical Services Department, and works undertaken in accordance with the approved engineering drawings, specifications and approved plan of subdivision, for grading and/or stabilisation of the site to ensure that:
 - a. lots can accommodate their intended use; and**
 - b. finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting.****
- 6. Engineering drawings and specifications are to be submitted and approved by the Shire's Technical Services Department, and works undertaken in accordance with the approved engineering drawings and specifications and approved plan of subdivision, for the filling and/or draining of the land, including ensuring that stormwater is contained on-site, or appropriately treated and connected to the local drainage system. Engineering drawings and specifications are to be in accordance with an approved Urban Water Management Plan (UWMP) for the site, or where no UWMP exists, to the satisfaction of the Western Australian Planning Commission.**

7. The land being filled, stabilised, drained and/or graded as required to ensure that:
 - a. lots can accommodate their intended development; and
 - b. finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and
 - c. stormwater is contained on-site, or appropriately treated and connected to the local drainage system.
8. Drainage easements and reserves as may be required by the Local Government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the *Planning and Development Act 2005*.
9. Easement(s) in accordance with Sections 195 and 196 of the *Land Administration Act 1997* for the benefit of "The Shire of Chittering and the public at large" are to be placed on the certificate(s) of title of the proposed lot(s) specifying access rights. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). The easement(s) are to state as follows:
"Fire and emergency purposes"
10. A Fire Management Plan being prepared, approved by the Shire's Community Emergency Services Manager and relevant provisions implemented during subdivisional works, in accordance with the WAPC's *Guideline Planning for Bushfire Protection Edition 2, May 2010* (in particular Appendix 3) to the specifications of the Local Government and/or the Fire and Emergency Services Authority.
11. A notification, pursuant to section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
"The lot(s) is/are subject to a fire management plan."
12. Suitable arrangements being made with the Local Government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision.
13. Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision.
14. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
"A reticulated sewerage service is not available to the lot/s."
15. Rural Numbering shall be required for all lots at the Applicant's cost.
16. Council authorises the Chief Executive Officer and President to sign and affix the Common Seal where necessary to clear any of the conditions outlined above.

Advice note

1. *In regard to Condition 2, the Western Australian Planning Commission will accept building clearance requirements as specified in the relevant Local Planning Scheme operative at the time the subdivision approval was granted by the Western Australian Planning Commission.*

2. *In regard to Conditions 13, the Landowner/Applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the Landowner/Applicant, a Land Development Agreement under Section 67 of the Water Agencies (Powers) Act 1984 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.*

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.1.5 Declared Dog Exercise Areas/Prohibited Areas*

Applicant	Shire of Chittering
File ref	19/04/0003
Prepared by	Azhar Awang, Executive Manager Development Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Dog Exercise Area map

Background

The matter was previously considered by Council at its meeting held on 25 June 2014. Council at that meeting resolved as follows:

“That Council in regards to the Dog Amendment Regulations 2014 affecting the Shire of Chittering Dogs Local Law makes the following recommendation:

- 1. That Pt Lot 1023 Edmonds Place, Bindoon as per the attached plan is declared as a dog exercise area;*
- 2. That the following areas are declared as prohibited areas for dogs:*
 - (i) Public Building, unless permitted by a sign.*
- 3. These areas will be subject to any written law and any law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992 (Commonwealth) section 9(2).*
- 4. Upon completion of the advertising period any submissions will be tabled at the next available Council meeting for its consideration.”*

The closing date for submission was 22 August 2014. At the end of the submission period, no submissions were received.

Consultation

The required advertising has been undertaken through an advert under Local Government Notices in the West Australian (23 July 2014), Council’s website and on the public notice board.

Statutory Environment

State: *Dog Act 1976, s31:*

- 31. Control of dogs in certain public places*
 - (1) A dog shall not be in a public place unless it is—*
 - (a) held by a person who is capable of controlling the dog; or*
 - (b) securely tethered for a temporary purpose, by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.*
 - (2A) Despite subsection (1), a dog shall not be in a public place—*
 - (a) at all if the place is specified under subsection (2B) as a place where dogs are prohibited at all times; or*
 - (b) at a time when the place is specified under subsection (2B) as a place where dogs are prohibited at that time.*
 - (2B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited—*
 - (a) at all times; or*
 - (b) at specified times.*

- (2) A dog is exempt from the requirements of subsection (1) if—
- (a) it is in a dog exercise area specified under subsection (3A); or
 - (b) it is in a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under subsection (3B); or
 - (c) it is in or on a vehicle; or
 - (d) it is being exhibited for show purposes; or
 - (e) it is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a body approved by the local government in whose district the obedience trial or classes are conducted; or
 - (f) it is registered as being bona fide used in the droving or tending of stock and is being so used or is going to or returning from a place where it will be, or has been, so used; or
 - (g) it is a foxhound in a pack bona fide engaged in hunting or hound exercise or in going to or returning from hunting or hound exercise; or
 - (h) it is being used for retrieving, duck hunting or other customary sporting purposes.
- (3A) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.
- (3B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place that is under the care, control or management of the local government to be a rural leashing area.
- (3C) At least 28 days before specifying a place to be—
- (a) a place where dogs are prohibited at all times or at a time specified under subsection (2B); or
 - (b) a dog exercise area under subsection (3A); or
 - (c) a rural leashing area under subsection (3B),
a local government must give local public notice as defined in the Local Government Act 1995 section 1.7 of its intention to so specify.
- (3) If a dog is at any time in any public place in contravention of subsection (1) or (2A), every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B.
Penalty: a fine of \$5000.
- (4) This section does not apply to a dangerous dog.
- (5) A local government must specify under subsection (3A) such dog exercise areas as are, in the opinion of the local government, sufficient in number, and suitable, for the exercising of dogs in the district.

Local: Shire of Chittering Dogs Local Law 2011

PART 5 - DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

- (1) Subject to Section 8 of the Act and Section 66J of the Equal Opportunity Act 1984, dogs are prohibited absolutely from entering or being in any of the following places—
- (a) a public building, unless permitted by a sign;
 - (b) a theatre or picture gardens;

- (c) all businesses or vehicles classified as food businesses or food transport vehicles under the Food Act 2008.
 - (d) a public swimming pool; and Page 13
 - (e) the following reserves and freehold land -
 - (i) Clune Park, Bindoon; and
 - (ii) John Glenn Park, Muchea
- (2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

5.2 Places which are dog exercise areas

- (1) Subject to clause 5.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, Pt Lot 1023 Edmonds Place, Bindoon is a dog exercise area.
- (2) Subclause (1) does not apply to—
 - (a) land which has been set apart as a children's playground;
 - (b) an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
 - (c) a car park.

Policy Implications

Nil

Financial Implications

Cost of advertising, signage and disposal bags.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Not applicable

Triple Bottom Line Assessment

Economic implications

There may be some economic implication associated with the proposal such as purchase of dog disposal bag, signage and advertising.

Social implications

The designated areas provide the residents alternative sites where dogs are or not allowed in certain areas of public places.

Environmental implications

There are no known significant environmental implications associated with the proposal.

Comment

The purpose of this process is to ensure that the areas designated for dog exercise area and where dogs are prohibited in certain areas is consistent with the *Dog Amendment Regulation 2014*. Given that no submissions were received objecting to the proposed designated area and prohibited areas for dogs, it is recommended that Council endorse the following areas for the specific purposes.

9.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 090914

Moved Cr Clarke / Seconded Cr Gibson

1. That Council
 - a. Declare Part Lot 1023 Edmonds Place, Bindoon as per the attached plan as a dog exercise area.
 - b. Declares Public Buildings, unless permitted by a sign, are prohibited areas for dogs.
2. This resolution is subject to any written law and any law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992 (Commonwealth) section 9(2).
3. Appropriate signage be placed on site of the specific purposes in regards to dogs activities.

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY VOTE**

9.1.6 Appointment of Authorised Officer - Compliance Officer

Applicant	Shire of Chittering
File ref	13/05/2
Prepared by	Azhar Awang, Executive Manager Development Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	Nil

Background

In accordance with the Shire's Workforce Plan and the ongoing compliance issues experienced by the Shire, the appointment of a Compliance Officer will provide relief with some of these ongoing compliance matters.

Mrs Janice Billen has been appointed as the Compliance Officer commencing on Monday, 8 September 2014. Mrs Billen had previously been appointed on a contract basis in 2013 for a three months period to undertake the fire breaks compliance.

Council's approval is requested for Mrs Billen to be appointed as an Authorised Officer to have the necessary approval to carry out the duties in this capacity.

Consultation

Manager Human Resources
Community Emergency Services Manager

Statutory Environment

Dog Act 1976 & Regulations
Control of Vehicles (Off-road Areas) Act 1978 & Regulations
Litter Act 1979 & Regulations
Local Government Laws
Local Government Act 1995 (Sections 3.39, 9.10, 9.11, 9.15)
Dog Act 1976 – Registration Officers Only
Bush Fires Act 1954, Section 38 – Fire Control Officers
Local Government Act 1995, Section 3.28 & 3.29 – Powers of Entry, Part 3, Division 3
Cat Act 2011, Sections 9, 9(5), 10, 11, 12, 13, 26 & 48 – Registration Officers Only
Planning and Development Act 2005
Building Act 2011

Policy Implications

Nil

Financial Implications

There will be a charge for publishing in the *Government Gazette*.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environment implications associated with this proposal.

Comment

Endorsement of the changes requested will ensure that compliance of the associated Acts, Regulations and Local Laws can be fulfilled at all times.

Prior to commencement of the meeting the CEO advised that the officers recommendation had been amended to specifically identify the relevant sections of each Act.

9.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 100914

Moved Cr Rossouw / Seconded Cr Clarke

Council hereby resolves that the Compliance Officer employed by the Shire shall at all times:

- a. **be designated pursuant to section 96(3) of the Building Act 2011 as an authorised person for the purposes of that Act;**
- b. **be appointed pursuant to section 9.10 of the Local Government Act 1995:**
 - i. **as a person authorised for the purposes of section 9.24(1) of that Act to commence a prosecution for an offence against that Act;**
 - ii. **as a person authorised for the purposes of section 9.24(2) of that Act to commence a prosecution for an offence against a local law made by the local government;**
 - iii. **to perform the functions of an authorised person pursuant to sections 9.13 and 9.16 of that Act;**
 - iv. **to be authorised to remove and impound goods pursuant to section 3.39 of that Act;**
 - v. **to be authorised for the purposes of section 9.11 of that Act; and**
 - vi. **to administer a public pound established and maintained by the local government for the purposes of the Dog Act 1976; and**
- c. **be appointed pursuant to section 29(1) of the Dog Act 1976 to exercise the powers conferred on an authorised person under that Act;**
- d. **be authorised for the purposes of section 44(2) of the Dog Act 1976 to take any proceedings under that Act;**
- e. **be authorised for the purposes of section 33E(1) of the Dog Act 1976 to declare a dog a dangerous dog pursuant to that Act;**
- f. **be authorised to effect the registration of dogs pursuant to the Dog Act 1976;**
- g. **be appointed pursuant to section 48(1) of the Cat Act 2011 to be authorised for the purposes of performing the functions of an authorised person under that Act;**

- h. be appointed pursuant to section 38(1) of the Bush Fires Act 1954 to perform the functions of a bush fire control officer under that Act;**
- i. be delegated authority generally pursuant to section 59(3) of the Bush Fires Act 1954 to institute and carry on proceedings in the name of the local government under that Act;**
- j. be appointed pursuant to section 38(3) of the Control of Vehicles (Off-road Areas) Act 1978 as an authorised officer for the purposes of that Act for the whole of the district;**
- k. be appointed pursuant to section 17(1) of the Caravan Parks and Camping Grounds Act 1995 as an authorised person for the purposes of that Act; and**
- l. be appointed pursuant to section 23(11) of the Caravan Parks and Camping Grounds Act 1995 for the purposes of section 23(2) of that Act.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY VOTE**

9.2 TECHNICAL SERVICES

9.2.1 Asphalt for Road Construction Works*

Applicant	Shire of Chittering
File ref	28/03/0002
Prepared by	Jim Garrett, Executive Manger Technical Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Asphalt matrix

Background

As part of the Shire of Chittering annual road construction program, quotes were requested through the WALGA Preferred Suppliers arrangement, to supply and lay approximately 1,094 tonne of asphalt.

The roads that works will be carried out on area:

1. Muchea South Road
2. Parkside Gardens
3. Binda Place
4. New Medical Centre Road

Quotes were received from the following suppliers:

1. Downer EDI \$190.11 per tonne for asphalt (approximate cost \$207,980)
2. Fulton and Hogan \$196.65 per tonne for asphalt (approximate cost \$215,135)

All quotes received are GST exclusive.

Due to the amount on the quotes received and the threshold of any purchases over \$100,000 in the Shire of Chittering purchasing policy, the Chief Executive Officer requires Council approval to sign the purchase orders for the supply and lay of approximately 1,094 tonne of asphalt.

A qualitative criterion was conducted to assess the asphalt quotes as can be seen in attachments.

Fulton Hogan received higher scores in the asphalt matrix due to works carried out in previous years for the Shire of Chittering and experience of staff and contractors to carry out the work.

It is recommended that Fulton Hogan be the successful contractor to supply and lay approximately 1,094 tonne of Asphalt in the 2014-2015 financial year.

Consultation

Nil

Statutory Environment

State: *Local Government Act 1995 s3.57 – Tenders for providing goods or services*

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.*

State: *Local Government (Function and General) Regulations 1996, Part 4, Division 2 – Tenders for providing goods or services (s3.57), Regulations 11-24.*

Policy Implications

Policy 2.12 - Purchasing

Financial Implications

In the 2014/2015 budget for road construction the following funds have been allocated to:

• Muchea South Road	\$533,980
• Parkside Gardens	\$224,815
• Binda Place	\$297,944
• Medical Centre Road	\$ 21,801
Total	\$1,078,540

Strategic Implications

Nil

Site Inspection

Yes

Triple Bottom Line Assessment

Economic implications

Reconstruction of the roads will assist in the asset preservation of the Shire of Chittering Road network reducing maintenance costs.

Social implications

Reconstruction of the roads will improve road safety for all road users.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Comment

The quote received from Downer EDI per tonne did not include mobilisation or traffic management, which increased the costs by \$13,123. The quote received from Fulton Hogan price was inclusive of mobilisation and traffic management.

All WALGA procurement contracts are established by procurement specialist using a rigorous public and compliant process. Preferred suppliers are pre-qualified to ensure compliance. This is to provide WALGA members with the safeguards of a quality assured process, legal compliance, probity, risk mitigation and security of supply.

9.2.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 110914

Moved Cr Rossouw / Seconded Cr Gibson

That Council:

- 1. Award Fulton Hogan the contract to supply and lay approximately 1,094 tonne of asphalt at \$196.65 (ex GST) per tonne for 2014/15.**
- 2. Grant approval for the Chief Executive Officer to sign purchase orders for Fulton Hogan to supply and lay approximately 1,094 tonne of asphalt.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 31 August 2014*

Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Financial Statements for period ending 31 August 2014
Attachments	1. Bank reconciliation for period ending 31 August 2014 List of accounts paid for August 2014 Statement of Financial Activity for period ending 31 August 2014

Background

In accordance with *Local Government (Financial Management) Regulation 34(1)*, local governments are required to prepare, each month, a statement of financial activity reporting on revenue and expenditure for the month in question.

The statement of financial activity is to be presented at an ordinary meeting of council within two (2) months after the end of the month to which the statement relates.

The statement of financial activity for the period ending 31 August 2014, financial statements, bank reconciliation and list of accounts paid for the period ending 31 August 2014 are hereby presented for Council's information.

Consultation

Chief Executive Officer
Executive Manager Development Services
Executive Manager Technical Services
Manager Human Resources
Community Emergency Services Manager
Building Co-ordinator

Statutory Environment

State: *Local Government Act 1995*
Local Government (Financial Management) Regulations 1996

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Not applicable

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Comment

Council is requested to accept the monthly statement of financial activity, financial statements, bank reconciliation and list of payments as presented.

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 120914

Moved Cr Clarke / Seconded Cr Rossouw

That Council:

1. **endorse the list of payments:**

- a. PR3374
- b. PR3375
- c. EFT 9893 - EFT 10002
- d. Municipal Fund Cheques 13663 - 13683
- e. Direct Debits and Transfers as listed
- f. Trust Fund Cheques 419 - 422

Totalling \$970,588.28 for the period ending 31 August 2014.

2. **receive the bank reconciliation for the period ending 31 August 2014.**

3. **receive the financial statements for the period ending 31 August 2014.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.3.2 Unbudgeted Expenditure - Photocopier

Applicant	Shire of Chittering
File ref	12/07/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	Nil

Background

Council is requested to consider the authorisation of unbudgeted expenditure for the replacement of the photocopier in the Development Services Department.

The current photocopier in the Development Services Department is over five (5) years old and has recently broken down and RBC Rural have advised that the copier is unrepairable.

Consultation

Chief Executive Officer

Statutory Environment

Local Government Act 1995

Local Government Financial Management Regulations 1996

Policy Implications

Nil

Financial Implications

No allowance had been made for this expenditure in the 2014-2015 budget, as when the budget was prepared it was felt that the copier may have lasted one more year.

This proposal will have no effect on the bottom line of the budget as the expenditure will be offset by a transfer from the Office Equipment Reserve.

Strategic Implications

Nil

Site Inspection

Not applicable.

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Comment

During the preparation of the 2014-2105 budget the matter of replacing the photocopier was raised. It was felt that we may be able to continue using the copier for another year and replace it in the next budget.

The current photocopier in the Development Services Department stopped being functional several weeks ago has been assessed by RBC Rural as being unrepairable due to the age of the machine and the unavailability of parts.

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 130914

Moved Cr Douglas/ Seconded Cr Rossouw

That Council:

1. Authorise the unbudgeted expenditure of \$5,652.20 from GL 1320140 to replace the photocopier in the Development Services Department.
2. Authorise the transfer of \$5,652.20 from the Office Equipment Reserve.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY VOTE

9.4 CHIEF EXECUTIVE OFFICER

Nil

10. REPORTS OF COMMITTEES

Nil

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

14. MEETING CLOSED TO THE PUBLIC

Nil

15. CLOSURE

The Presiding Member declared the meeting closed at 7.52pm



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